

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of AT&T Communications of	)	CC Docket No. 00-251
Virginia, Inc., Pursuant to Section 252(e)(5)	)	
of the Communications Act for Preemption	)	
of the Jurisdiction of the Virginia	)	
Corporation Commission Regarding	)	
Interconnection Disputes with Verizon	)	
Virginia, Inc.	)	

**AT&T REPLY TO VERIZON**

AT&T Communications of Virginia, Inc. ("AT&T") hereby replies to Verizon's Response to AT&T's Petition for Reconsideration, filed September 10, 2002. Although Verizon raises numerous opposing arguments, sections 251(a)(1) and 251(c)(2)(A) of the Act require Verizon to provide tandem transit to AT&T in order for AT&T to interconnect indirectly with third-party carriers. Moreover, any compensation Verizon receives for the provision of such tandem transit is governed by § 252(d)(1) and must be based on TELRIC. AT&T's petition therefore should be granted.

**ARGUMENT**

In its petition, AT&T established that use of the incumbent LEC's local tandem is essential to CLECs' ability to exchange traffic with smaller LECs where direct interconnection of facilities is commercially impractical. As AT&T showed, if CLECs

are not able to use the incumbent LECs' existing local tandems to transmit calls to – and receive calls from – carriers already receiving ILEC traffic through those tandems, the CLECs' customers will be unable to make calls to or receive calls from persons served by those small carriers, placing CLECs at an additional competitive disadvantage to the incumbents.

Verizon does not respond to this competitive reality, except to trot out its well worn “facilities-based competition” mantra, contending that provision of tandem transit will discourage such competition. This contention flies in the face of common sense and the facts. New entrants must establish a critical mass of customers before they can justify the widespread deployment of facilities. Once that mass is reached, however, competitive LECs have economic and other incentives to deploy their own facilities. As the Bureau recognized, “[t]he record indicates that competitive LECs already move their traffic onto direct end office trunks as their traffic volumes increase.” *Order*, ¶ 88. Moreover, the Supreme Court recently rejected the same incumbent LEC facilities-based competition argument with respect to unbundled network element pricing:

[T]he claim that TELRIC is unreasonable as a matter of law because it simulates but does not produce facilities-based competition founders on fact. The entrants have presented figures showing that they have invested \$55 billion since the passage of the Act (through 2000) . . . .

*Verizon Communications Inc. v. FCC*, 122 S.Ct. 1646, 1675, 152 L.Ed. 2d 701, \_\_\_\_ (2002).

Verizon also contends that the Bureau properly declined to impose a tandem transit obligation because no current Commission rule imposes such an obligation. However, as AT&T showed in its petition, sections 251(a)(1) and 251(c)(2) of the Act establish Verizon's obligation to provide tandem transit. The fact that the Commission

has not yet ruled on a particular issue does not mean that the Bureau may ignore the requirements of the Act, and AT&T cited extensive authority in its petition supporting the Bureau's authority to Act.<sup>1</sup> Yet, Verizon does not even address that authority. Further, by declining to rule on this issue, the Bureau has in fact blessed Verizon's petition and made a ruling that conflicts with the plain language of the Act. Consistent with its authority and responsibility under the Act, the Bureau should confirm now that Verizon is required to provide tandem transit at TELRIC rates.

Verizon has also chosen not to address the fact that CLECs could accomplish the same result – and incumbent LECs would be held to the same obligation – by ordering a tandem switching/transport UNE combination to deliver traffic via the incumbent LEC's tandem to the third-party carrier. As the *Order* notes, CLECs have the right to access UNEs – including tandem switching and interoffice transport UNEs – to provide telecommunications services, “including local exchange service involving the exchange of traffic with third-party carriers.”<sup>2</sup> Permitting Verizon to dismantle existing tandem transit arrangements so that CLECs can attempt to duplicate them through UNE combinations would serve little purpose except to give Verizon – and other incumbent LECs – another opportunity to use their bottleneck power to slow roll competition.

---

<sup>1</sup> See Petition, fn. 7.

<sup>2</sup> *Order*, ¶ 121.

## CONCLUSION

For all of the reasons set forth above, in AT&T's petition, and in AT&T's prior submissions in this proceeding, the Commission should grant AT&T's petition for reconsideration and hold that Verizon is required by the Act to provide tandem transit at TELRIC rates.

Respectfully submitted,

AT&T CORP.

By /s/ Stephen C. Garavito

Mark C. Rosenblum  
Lawrence J. Lafaro  
Stephen C. Garavito  
Its Attorneys  
295 N. Maple Avenue  
Room 1131M1  
Basking Ridge, NJ 07920  
908-221-8100 (voice)  
908-630-3424 (fax)

Mark A. Keffer  
G. Ridgley Loux  
Ivars V. Mellups  
Michael A. McRae  
Stephanie Baldanzi  
AT&T  
3033 Chain Bridge Road  
Oakton, Virginia 22185  
703-691-6046 (voice)  
703-691-6093 (fax)

Ellen Schmidt  
AT&T  
99 Bedford Street  
Boston, MA 02111  
617-574-3179 (voice)  
617-574-3274 (fax)

Dated: September 20, 2002

CERTIFICATE OF SERVICE

I, Theresa Donatiello Neidich, hereby certify that on this 20<sup>th</sup> day of September, 2002, a copy of AT&T Reply to Verizon was served on the persons listed below by causing a copy to be placed in the United States Mail, postage prepaid, addressed as follows:

Jodie L. Kelley, Esq.  
Jenner and Block  
601 13<sup>th</sup> Street, NW  
Suite 1200  
Washington, DC 20005  
(for WorldCom)

Jill Butler  
Vice President of Regulatory Affairs  
Cox Communications, Inc.  
4585 Village Avenue  
Norfolk, VA 23502

Karen Zacharia, Esq.  
Verizon, Inc.  
1515 N. Court House Road  
Suite 500  
Arlington, VA 22201

\_\_\_\_\_  
/s/Theresa Donatiello Neidich  
Theresa Donatiello Neidich